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The Opinion

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THE OPINION

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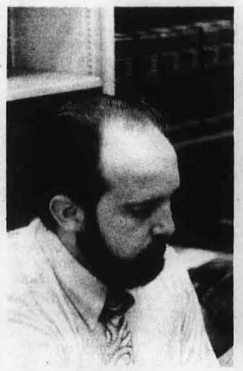
SBA Board Of Directors Takes Office



PRESIDENT
Paul Cardon

1st Vice-President
Mark Farrell

2nd Vice President
John Samuelson

Secretary
David Sands

Treasurer
Richard Weinberg

The first meeting of the new Board of Directors of the Student Bar Association convened Friday with President Paul Cardon presiding. Also present were Mark Farrell, 1st Vice-President, John Samuelson, 2nd Vice-President, Richard Weinberg, Treasurer, and David Sands, Secretary.

The new representatives of the Junior class are John Blair, Herbert Greenman, Shelly Gould, Mike Montgomery, Lee Ginsberg, and Tom Brett. For the Freshmen, Bob Wall, Gene Goffin, Yvonne Lewis, Bill Buscaglia, Mike Berger, and Judy Kamph began the new term.

At the previous week's meeting, at which the new officers were installed, outgoing President Robert Penny made a final statement enumerating both the successes and failures of the SBA this year. He pointed to the election reforms and SBA reorganization as examples of two achievements of his administration. He also noted that there was a growing strain in relations between students and faculty.

As his final word, President Penny predicted that solutions to the problems facing the SBA could be found through a dedicated effort by all members. He suggested three specific steps toward improving the student government. They were: 1) suspend all members with infrequent attendance, 2) pay stipends to the President and 2nd Vice-President of the SBA for their heavy responsibilities, and 3) consider the newly proposed revision of the committee system. Before he passed the gavel to Mr. Cardon, he gave him a special note of comendation for his involvement during the past school year.

Upon accepting the gavel, President Cardon's first official act was to offer thanks and recognition to the outgoing SBA and committee members for their work in the past year.

The new SBA faces many problems in the coming year. Foremost of these is the necessity of shaping the Board of Directors into an effective tool for use to achieve student needs. This year the body suffered both from a lack of interest and from a sluggish and inefficient committee system.

The foremost of President Cardon's aims this year is to shape the Board into a respected and functional asset of the student body. This may be a difficult task considering the track record of the traditionally apathetic student body.

IN THIS ISSUE

Klein - Fromm Moot Court Winners

The fifth annual DESMOND MOOT COURT COMPETITION for students at the law school concluded Saturday with the final round of argument and the presentation of awards.

The winning team was Isaac Fromm of 191 Cleveland Avenue and David Klein of 227 Kenville Road. The runner-up team was David Civilette of 262 Voorhees Avenue and William Gardiner of 467 Norwood Avenue.

Additional awards were: BEST SPEAKER – John Blair of 59 Blackmon Road, Grand Island; BEST APPELLATE BRIEF – Mr. Fromm and Mr. Klein.

The panel of judges for the final round included the Honorable Charles S. Desmond, retired Chief Judge of the New York Court of Appeals; the Honorable Matthew J. Jasen, Associate Justice of the Court of Appeals; and the Honorable Harry D. Goldman, presiding Justice of the Appellate Division, Fourth Judicial Department.

The fictitious case argued by the participants in the competition concerned the liability of a legal aid office for libel and malicious prosecution in its efforts to stop pollution of a lake, and the liability of a corporation under a state statute prohibiting pollution of lakes.

Eight teams of students entered the competition which required the preparation of an appellate brief and the presentation of an oral argument. The participants in addition to those who received awards, included William MacTiernan, William Peltz, Michael Calvete, Jonathan Kastoff, Robert Allen, Jay Bielat, Richard Steiner, Eugene Haber, David Fox, and Richard Weinstein. All are members of the junior class at the law school.

Early rounds of the competition were held on Monday – Wednesday, April 19-21, and were judged by members of the bench and bar from the Buffalo area.

The competition was planned and administered by members of the 1970-71 Moot Court Board, with Joel Defren serving as chairman of the program. Members of the 1971-72 Moot Court Board will be chosen from among the participants in the competition.

Editorial

SBA Needs You

The Student Bar Association election is an example of the depths to which student interest and participation in this organization have fallen. In the Junior class only five persons considered the student government important enough to submit a petition of candidacy. This left the organization in the embarassing position of having to fill the sixth slot with a write-in candidate, hardly a procedure likely to increase respect for the Board of Directors.

It is a cliche to say that the student government can and will be only as effective as the amount of student support allows, but some of the reasons for the truth of this statement are more subtle. Many of the problems arise from a vicious circle of self-interest. Both the faculty and administration are primarily interested in their own conception of law school education and unless a significant amount of pressure is brought forth from the student body their view will prevail. The student body, although interested in promoting their own view of the law school experience, will not support any organization which does not *effectively* promote their interests. The Student Bar Association Board of Directors, the only organization which can effectively represent the student's interests, can only be effective with a large degree of support and participation from the student body. Thus, student interests cannot be effectively promoted unless there is a strong Board of Directors and committee system, but in the past students have not supported the student government because it was not strong and effective. To say that one will not support the student government because it is not effective and then not realise that the reason for its ineffectiveness is one's own non-support is certainly irresponsible but unfortunately widespread. *It is clearly against every student's self-interest.*

The Student Bar Association now has new leadership. Already many actions have been taken to insure that student interests will have an effective advocate. In two short weeks the new Bar has worked to find new offices for itself and *The Opinion* which will allow them to operate more effectively. It has considered proposals on examination reform, grading system reform, and means to strengthen the committee system.

The time has come for the student body to work for its own interest. This week committees will be set up and membership determined for the coming year. Everyone's help is needed. It is also important for any law student who has an idea or suggestion to speak to his represenative or attend the weekly SBA meetings. *The Opinion* which is the voice of the Student Bar Association, also is selecting its staff for the coming year. Much help is needed if the newspaper is to continue to meet its responsibilities to promote student ideas and interests.

This is your Law School. It will only be what you make it. Let's start working together today.

THE OPINION

Volume 11, Number 8 April 29, 1971

Editor-in-Chief ..... John R. Samuelson
Assistant Editors ..... George Riedel
Michael Montgomery
Business Manager ..... Malcolm L. Morris

Staff: Jeff Spencer, Alan Snyder, Kathleen Spann
Photography: Samuel Fried, Samuel Newman Rosalie Stoll
Contributors: Robert Rodecker, Alan Minsker, Roger Stone, Sandra Kay, Paul Cardon, Mark Farrell, Ricahrd Weinberg, Joseff Keefe.

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Letters To The Editor

VOLUNTARY FEES

To the Editor:

The main propaganda tool of the Student Government Establishment, *The Spectrum* has been blasting us for several weeks on the necessity of retaining mandatory fees. Apparently the *Spectrum* fears that it's subsidy would be eliminated or diminished if mandatory fees were rejected.

This assault by the Establishment reveals its weaknesses and shows how utterly alienated the Establishment is from the students. Their first claim is that without mandatory fees there would be no "free" benefits to the students (Nothing is what you'ss get with voluntary fees. "*Spectrum* April 21) This is a patently false assertion; the choice is between mandatory fees and voluntary fees, not between mandatory fees and *no* fees.

Thus the Establishment has admitted its failure to respond to the desires of the students. It realizes that the students have seen through the Establishment's propaganda. The "services" graciously provided by the Establishment are not wanted by the students. They will not voluntarily pay for them, therefore they must be forced to pay for them. As a result, a powerful group of special interests is parasitically dependent upon mandatory fees coerced from the students. No *Spectrum* without mandatory fees? Meaning the *Spectrum* admits that is is so poor in quality that no one would voluntarily support it? No "free" movies? Meaning that no one would willingly pay to see them? No more "free" skiing for the Schussmeisters? Meaning that skiing is a necessity for some students to be subsidized by the rest?

The principal of mandatory fees is that the students must be coerced into providing for benefits they don't want, "free" services they wouldn't willingly pay for, and subsidies for organizations that are too lazy and/or incompetent to provide for themselves.

There is also another issue, that of the misuse of the funds. Why should a student be coerced (no fees, no grades) into providing funds for Sub-Board I to buy land in Amherst which that student will never see or be able to use? Why should a student be coerced into providing funds for activities to which he is actively opposed?

The answer is to set up a system for the collection of voluntary fees that allows the donor to specify the use of the funds. That way he can express his desires in the most effective manner, and those who are parasites upon the student body will be served. It's just a simple matter of freedom versus oppression.

Otto Matsch

NCLU NEEDS ALUMNI AID

To the Editor:

Let me use this opportunity to explain to you that on a continuing basis the Buffalo Chapter office of the New York Civil Liberties Union needs your help of co-operating volunteer lawyers. You might say that NYCLU's most valuable tool is litigation, but it is difficult to see that Civil Liberties laws are enforced or that appropriate amendments to existing laws are encouraged, without the help of practitioners who are willing to take a case for the Civil Liberites Union from the start and follow through, using independent judgment.

Attorneys in the Buffalo area have been co-operative in our effort to handle the litigation load of this office. We will need more help in months to come. Partly due to our inability to make contacts with these volunteers on a systematic rotation basis, we have unnecessarily placed the burden onthe shoulders of a few volunteer affiliates, and in some cases, have been compelled to discount the far-reaching importance of issues that certain civil liberties cases may raise, primarily because a volunteer is not available to handle that case.

Without overstressing the significance of protection and preservation of civil liberties in 1971, let me simply point out that of late the delicate balance between protection by the State and protection from the State is not stable and that, more than ever, access to the courts on Bill of Rights questions is of paramount importance.

If you have any questions regarding the purposes and function of the Chapter, give us a call. We keep fairly well up-to date files, including briefs, on Bill of Rights questions, relevant to a case you're handling, whether or not on behalf of Civil Liberties.

Ideally, a list of volunteer attorneys could be used so as to avoid consulting any one lawyer more than, say, twice a year. A consulted attorney would then, just as in any other case he might handle, take as much or as little legal action as is necessary to protect the rights of his client.

NYCLU

New Office for the Student Bar Association and *The Opinion* in lobby of Eagle Street building is examined by SBA President Paul Cardon. This space was given to the organizations after the Library, the administration, and the Law Review decided that there was no possible alternative use for the area. The area, which boasts such advantages as easy access to the hall pencil sharpener, was narrowly chosen over an alternative location, a third floor broom closet.

SBA

Optional Take-Home Exams Proposed

Brian York, a member of the Concerned Law Students, has proposed that an optional take-home examination be offered for all courses offering (or requiring) a traditional examination. With this option, he believes, the student will have the choice as to the examination conditions under which he will be required to perform.

Details of the system are to be worked out by a student-faculty committee. Several suggestions in the proposal are that the take-home period be uniformly limited in each course, that a student be allowed to sign an exam out within a maximum range of time and then be required to return it before the time for completion expires, and that a minimum time be set of at least two or three days for completion of an exam.

Mr. York feels that the proposal is sympathetic to those students who do not wish to spend the time required for completing a take-home examination as it would provide for an option in each course allowing the student to choose whichever type of exam best suited him.

The text of Mr. York's proposal and explanation follow:

It is hereby proposed that an *optional* take-home examination be offered for all courses offering (other-wise requiring) a traditional examination – the student having the option as to the examination conditions under which he will be required to perform.

"This proposal is being made for the purpose of eliminating the prejudice to many students which I believe to be inherent in the traditional (time-pressured, usually closed book) examinations. The proposal is based on two propositions. First, that there are some students who are unduly prejudiced by the traditional-time limited, closed book examination method of evaluation. The second is that this evaluation mechanism has no special accuracy for measuring the level of competence of a student to professionally handle legal problems.

"It is my belief that the reason that students fail or do poorly on exams is not always that they haven't learned the subject matter. Many times it is due to the adverse conditions of the evaluation method itself. The traditional 3-4 hour (usually closed book) examination which is the most common evaluation method (especially for required, and "bar" courses) is prejudicial to those students who cannot function well under such conditions. The harm caused is in the form of low evaluations or failures in courses requiring that method of evaluation. The harm does not end there, of course, but reappears whenever the students academic credentials are used as indicative of his competence qualification. The potential psychological harm from frustration and loss of confidence may be even more detrimental for some. It is recognized that those substantially prejudiced may be a minority of the student body, but this minority should be spared such unfairness and possible harm to their professional and psychological well being where a reasonable alternative is available.

"There is no special quality attributable to the traditional examination which makes it a superior evaluative method. The traditional examination is artificial and foreign to professional legal performance. It tends to measure ones ability to memorize the rules and reason of the law, then to recall them in some detail upon the stimulus of a factual situation, and to write an organized presentation under the pressure of the clock. These abilities do not seem logically to be determinative of a person's professional competence. To be sure, those students who have these abilities get an evaluation by this method which reflects their level of knowledge and competence. (those who get high grades well deserve them!) However, there are some students whose exam grades do not reflect their knowledge simply because they lack those skills (which happen to be immaterial to a legal career).

"One argument is raised that the exam experience is beneficial as a preparation for (or practice for) taking the bar exam which is given under the same conditions. My answer to this is first that the primary purpose of the course and the exams is not that of conditioning the students for taking a bar exam (some plan never to take one). Secondly, any such secondary benefit of that method of evaluation would still be available. This proposal provides an alternative for those students who don't preform well under those conditions and who feel that the repeated experience is not of sufficient value to overcome the lower grades and possible failures.

"Another negative feature of the traditional exam is that it is not a learning procedure in itself. In fact the trauma of taking it can cause a repression of the knowledge gained during the preparatory review. Writing a take-home exam, on the contrary, is a positive learning experience which has direct relevance to a student's competence to professionally apply this legal education. His answers will not be limited to recall of the law and he will have time to organize a cogent presentation worthy of his professional competence.

"I have heard the contention that having two measuring instruments for the same class will prejudice one of the groups. This seems to me to be empty of support. The professor could offer two completely different exams and evaluate them seperately, as if he had had two different classes. If the same exam (question) is used, a higher standard of quality and clarity can be used (possibly requiring documentation like a memorandum of law).

"Having two types of examinations to evaluate should

(continued on page 12)

President's Corner

by Paul Cardon

First let me thank those of you who voted for your S.B.A. Officers and Directors for 1971-72. We appreciate your votes and urge your continued support and cooperation.

This past year has been characterized by frustration, resentment and despair for many students who have challenged the legitimacy of the power wielded by the 'Law School Complex' and many have become apprehensive, discouraged and apathetic. Perhaps now is a good time to examine the problem.

My feeling is that many students lay more stress on what they are against, but have little to say about what they are for. They often recognise the problems but fail to provide solutions. They do not seek recognition for the purpose of bargaining but search for issues upon which to mobilize protest. They tend to have a mixed bag of objectives and sincerely held beliefs, causing them to leap on an issue and dash off in all directions. Some of the more radical students are powered by high-voltage emotionalism rather than by experienced leadership and financial resources. and they eventually split into powerless small factions because of ill-assimilated idealism, fuzzy goals and a compulsion to be radical at any cost. Most of these groups will fade away for lack of a stable organization with any coherent programs or proposals to capture the interest and the support of the students. It troubles me to admit that the Student Bar Association also resembles this condition.

I hasten to add, however, that the diverse interests of all students, faculty and administrators can and must be conciliated for the mutual objective of maintaining a going concern. Such diversity cannot be eliminated, nor should it be, because it is rooted in the very nature of the differentiations which the academic community thrusts up as a necessary condition of maintaining itself. The answers lie not in abolishing or condemning such differences but in finding and providing legitimate channels through which they may be conciliated.

It is my belief that the S.B.A. must step forward and provide some of these channels. This does not discount the effect such groups as BALSA, Concerned Law Students, Law Women, etc., may exert by providing channels and solutions. It is important that members of all groups and/or organizations support such a unified effort.

One of the most difficult areas of concern for many students has been the concept of expanding the community of scholars to include themselves. Attempts to enlist faculty and administrative support for student participation in the 'Law School Complex', have met with mixed responses. It seems many faculty members, althoughcherishing their academic prerogatives and privileges, are primarily concerned with their rights as individuals. Thus, when confronted with the exercise os student power, the position of the faculty is unpredicable and often uncontrollable. Some members, alarmed by the prospect of student encroachment on their prerogatives in the areas of research, teaching and tenure become prisoners of their own ivory towers. Others are sympathetic to the requests and demands of student groups, and many more simply get quesy as they are tossed up and down in the waves of uncertainty. Moreover, many faculty members are easily swayed by events in a confrontation and rely on situation ethics . . . and are therefore even more unpredicable.

When confronted by the more radical student proposals and demands, the faculty and administration are often unable to present any more of a united front than have the students. A genuine concensus is as difficult for them as it is for the students. Therefore, certain student groups can always find some sympathetic, eager and vocal allies within the ranks of the faculty, and conversely these faculty members have their agents within the student ranks.

Student representation is designed as a technique to give the 'great silent majority' of students a 'piece of the action' on faculty and administrative terms. But student reps on all committess and organizations must have the authority and the courage to engage in meaningful dialogue and bargaining with faculty and administrators and not merely act as the messengers of their respective power bases. This especially requires student leaders who are willing to lead and who are not willing to be pushed into irresponsible positions by the most extreme members of their constituency.

Student leaders must begin to think and to get their supporters to think in terms of specific programs and proposals rather than general statements of frustration and unhappiness. They must realize that slogans are not demands upon which meaningful bargaining can take place. Written, well-conceived proposals and demands are essential. These same student leaders must also help their supporters to distinguish between their own propaganda and those demands which provide a real basis for settlement. In some situations, a reasonable compromise must always be available, and the students must realize that a principle of right is not always directly at issue, that more frequently the bargaining is over the application or implementation of a corollary of some right or principle.

Those persons who are the focal points of disputes, whether students, faculty or administrators, must realize that it is better to collectively bargain and have an influence over the outcome than to allow the situation to deteriorate to the point where violent protest or corresponding repressive actions are the only alternatives.

T. Anderson

Preserve Our Natural Heritage

Rant Chant

by Mike Montgomery

Legal learn or crash and burn, empiricism reason
study slows Cardozo knows so masochistic treason
Prosser save us or enslave us, tortious snorts abound
Cry alarm for where's the harm and casebook notes confound

Nisi Prius sorely tries us, Latin tags galore
Put downs fry us glares decry us sitting near the door
Running scared and unprepared, one hundred pages lost
Burning brightly learning slightly, is it worth the cost

Gorgonzola motorola, rose of Aberlone
Do we feel what is real, or beaucoup baloney
Law reviews us U's will screw us, riding for a fall
Grades enmire us who will hire us, pay scale big or small.

UCC confuses me and tax codes leave me reeling
IRS's self-made messes murder every feeling
So unsure yell au secour and how to find the light
Does the issue always miss you, justice blind the right.

Class Of 1975

10 to 1 Odds Against Undergrads In Law School Sweepstakes

by Jeff Spencer

Pity the poor undergraduate completely psyched from watching "the Young Lawyers" and reading about the heroics of Nader's Raiders. If he expects to fulfill his dreams through the U.B. Law School, chances (10 to 1) are that he will be in for a let down.

A recent interview with the Acting Registrar, Mr. David Kochery, revealed some rather interesting facts about the class of 1974. Out of approximately 1670 applications (70% more than last year) only about 200 will be accepted into next year's freshman class. The median LSAT score will be about 630 with the lowest score about 560 and highest around 700. To have any hope for acceptance, applicants also must have at least a 2.4 average (on a 4 point scale) in their undergraduate studies.

25-30 places have been set aside by the Admissions Committee for minority group students. However, no money probably will be available to help subsidize these students, as was the case with this years minority program. So far 79 applications have been received from minority group students. 230 Women have applied for places in the class of 1974 and indications are that about 55-57 (24%) will be accepted. Mr. Kochery indicated that this high rate of acceptance (1 of 4 women applicants accepted) was not due to any quota or special treatment, but generally higher (on the average) qualifications than male applicants. (You've come a long way baby).

Next year's freshman class will also include 22 veterans who had previously been accepted but who had to delay their legal studies due to military obligations.

Although no affirmative effort is being made to recruit out of state students, approximately 20% of the applications were from non-New Yorker's. Mr. Kochery pointed out that in the event that a decision had to be made between a New York State applicant and an out of state applicant of equal qualifications, the New York State student would probably be chosen. Behind this policy appears to be the fact that U.B. Law School is the only law school in the State University system and is of course directly supported by New York State taxpayers.

Mr. Kochery also noted that if the administrative and budget details are straightened out, the new registrar, Mr. Charles Wallin, should take office around June 1. Mr. Wallin presently holds the position of Assistant University Financial analyst in the Budget Office of the S.U.N.Y.A.B.

A Law Student Views Divorce

An Anticipitory Approach To One of Life's Nasty Little Problems

by Alan Minsker

Uriah the Hittite, not to be confused in the scholarly mind with Uriah Heap, once quipped to his benefactor, King David, upon learning of the King's unsuccessful attempt to end Uriah's disastrous marriage to Bethsheba: "Had I only prepared for this,/ now I might rea(d) Joyce.[1]" Of course he couldn't anyway. Joyce, unlike the New York Family Courts, was years ahead of uncouthed Uriah in thought and in perception. Joyce knew the unspeakable truths of putative marital bliss. He knew of the uncontrolled explosion which often ensues (in N.Y. about one time in four) when the law straps together one helpless man and one woman till Death doth them part. Or in the alternative, divorce. Now the trouble with all our great love poets, as well as all men in general, is that they view marriage from the wrong prospective. They see it from the point of view of two people about to marry, possessing a reasonable expectation of life-long happiness.

I propose an alternate viewpoint. I view the subject from the standpoint of a successful suitor before a New York Family Court. I ask: with what qualities should his spouse be endowed? and: how should he have conducted his part in the marriage prior the pending auspicious divorce? The inquiry is most revealing. It might allow a practicing attorney to give preventive advice when his client needs it most; *viz*, when first contemplating matrimony. I offer here some simulated legal advice for a fictitious client in such a profitable dilemma.

1. Don't marry and don't leave New York State. Living together in New York can be unadulterated fun since this state does not favor Common Law Marriage. But, frankly, the state policy in this regard is wishy-washy. If the two of you tiptoe off together, let's say into Pennsylvania, you may return only to find yourselves regarded as man and wife before the law of New York. So don't forget to obtain your roadmap after you leave the drugstore.

2. If you must marry, select a woman of great physical beauty. Alimony in New York is a linear function of the time required for a woman to acquire another husband after she is divorced. Empirically, a beautiful woman often outstrips her less comely sister in acquiring that all-important second husband. Marrying a beautiful woman, therefore, usually means doling out less alimony at some future time. Whatever you do, do not choose a woman with a unique beauty which only you perceive. After a brief marriage of only several months you may find yourself supporting that perception for the rest of your economic life. Appearances are deceiving. Satisfying the expensive (even if they aren't good) tastes of a Playboy Bunny may be much cheaper than anyone ever imagined – in the long run.

3. Marry an attractively obtuse ex-call girl. You can always tell the judge she never reformed, and the animalistic Family Courts will grant your divorce posthaste. None of the great jursts from the State of New York has yet heard a better reason for granting divorce than adultery on the part of the wife. And in the case of an ex-call girl, the problem of proof is non-existent. As many Family Court judges will chuckle in private chambers, judicial notice is the answer to such a touchy evidenciary problem.

4. Upon entering marriage, purchase a large affectionate dog. Canines like sacchrines and cyclamates are substitutes. They are economic substitutes for children. Should your marriage terminate during the life of the dog, you will not be faced with the embarrassing *Kusier v. Silver* 54 Cal. 2d 603, 354 P.2d 657, problem either. If, on the other hand, your marriage is still viable at the time of your dog's demise, you might rationally consider fathering a child.

5. Be reasonable in all your demands. Remember you have a legal *right* to reasonable access to your wife's body. Her refusal to accede to your demands constitutes desertion in the State of New York. What about non-sexual demands? I'm afraid that New York law recognizes virtually none. Just read *Willan v. Willan*, 1 W.L.R. 624 (C.A.), and be glad you live in New York.

6. Neither a rich man, nor a poor man be. Your personal wealth may provide just the incentive your wife needs to obtain a divorce, given the present structure of the New York Domestic Relations Law. Furthermore, a shrewd ex-wife of a wealthy man is not about to remarry, and therby give up her hard-earned alimony.

But it is far better to be rich than to be poor. In New York, as in almost every state in the Union, our culture is an economy, and frankly, we lawyers are proud of it. If you are poor, how do you expect to support a family, as the law expects every husband to do? Make no mistake about it, the law may have legendary loopholes in other areas, but in this area it is non-porous. More importantly, how do you think you will finance my reasonable legal fees *and* your wife's reasonable legal fees (as the law requires) in the event of divorce? You could try one of those cute little Enoch Arden affairs, but you better be damn careful or else the law will attack you with its criminal sanctions. You should be earning at least $10,000 a year before applying for a divorce. I'm afraid that in an economic culture, a man's ability to enter into and withdraw from relationships with other people is almost entirely a function of his income. Sorry, but that's just the way it is, and the law has seen fit to guarantee that it will remain that way - at least in the area of Family Law. Yes, through its DRL and through the great jurists it appoints to its Family Courts, New York State is determined to preserve all the economic values we all hold sacred. But that's a thesis in itself, a Marxist thesis, and exploring it further might result in my disbarment, (or might if and when I am barred).

That will be five hundred dollars, please, for legal consultation fees. Thank you. Now whatever you do, don't become a social agitator, and petition the New York Legislature for change. Based on the legislative reaction to abortion reform, you might be effective. The consequence of this could be very harsh on those domestic relations attorneys who thrive on human misery.

1. Minsker, *Minsker's Greatest Love Poems*, p.1103 published by A. Madge & A. Shunn, N.Y., N.Y.

Library Announces New Programs

Law Librarian, Vaclav Mostecky, indicated several new and innovative programs that are being undertaken by the law school which should be in full operation by next year. A paperback collection of books is being made available to all students on an "honor" system. The paperback collection, which hopefully will reach 3,000 by the time the new building opens, will be available in the reading section of the library to any student who wishes to "borrow" any of these books. The student will merely take the book and replace it when he has finished with it so that others may borrow it in like turn. There will be three major classifications: (1) Legal Classics, (2) Current and Timely Books of Today, and (3) General Interest which may include fiction, mysteries, and light readings. Mr. Mostecky disclosed that the cost of the program will run about $12,000, But he feels that it will broaden the basis of the library collection, and extend the concept of a law library by offering the student greater reading materials.

Sampling of new books now available to readers in the library's new browsing section.

The "honor" system, which is the policy the library is operating on now, generally is working well. While most of the books are returned by those using them after their use, some 5,500 or 3% of the collection was missing as of last year's inventory. Most of the loss was recorded in the Urban Affairs area. The greatest and most costly losses occured in Law Reviews where over 600 volumes were missing, and the cost to replace these will run $12,000.

LAW LABRARY TO BE IN TOP 10

Six years ago the University of Buffalo School of Law Library was within the bottom 25 law libraries, in size. Today the S.U.N.Y. at Buffalo School of Law ranks 28th in size, and within the next five years it will be within the top 10 law school libraries in the country. Under our presently crowded conditions, only part of the collection can be housed in the West Eagle and Prudential buildings, but when the new building is completed in February, 1973, the library with a capacity of 300,000 volumes will occupy six floors. At present the collection includes 150,000 volumes, a 500% increase from 1965, and currently the library staff is concentrating their efforts to fill gaps in sets of volumes, as well as keeping to date with new publications and books. As the school increases in faculty, specialized areas of law or related areas of social science will mandate the acquisitions in specialized areas which will be the next phase of the continuing process of the libraries plans. Building depth will take $1 million dollars over current library expenses and in 1973 the first part of this will be requested from the State.

THE STATE AND THE LAW SCHOOL

S.U.N.Y. at Buffalo School of Law has a unique place and role to play in New York because it is the only state law school and as such hopes to play a greater role than it has in the past for the bench and bar. With the Federation of Bar Associations, the law school next year will provide to any court, judge, or lawyer any library service they may require which will include book loans, copy service, and reference help. The law school will play an important part also in the setting up of the computerizing of New York State Law. The Law School beside having terminals at the new building for students' and professors' use in "finding" the law, will act as one of the monitors for the program. The Eagle Street Campus will also have a terminal for the computer and will serve as a resource center for the legal community in the Western New York Area.

First Impressions

Small Claims Court

by Richard Weinberg

On a Wednesday evening I ventured into the City building to attend a showing of Small Claims Court starring Judge_____. The elevator was inoperative so I had to make my way to the second floor via the dingy stair-well. It had the smell of an overnight cell housing the town drunks. The courtroom was a large, expansive room, reminiscent of courtrooms depicted in those 1930 grade B melodramas.

The room was getting crowded. Sitting up front to hear the action, I awaited the appearance of the judge. I had just gotten back to my seat from a fruitless journey looking for a john, when the bailiff asked all to stand for the entrance of the judge.

The judge explained to the assembled audience that the litigants had the choice of trial before the court, or arbitration. It was made quite clear that the court favored arbitration when the litigants in each case were called one at a time before the court and asked whether they preferred arbitration. If they desired arbitration, it was immediately provided. If either party requested a trial, the case was placed at the tail end of that night's calendar with no assurance of being heard that evening. They were informed that they could be called upon to appear another Wednesday evening to seek justice.

There were between forty and fifty cases to be heard within the three hours alloted for Small Claims Court that evening. The judge was forced to encourage arbitration as otherwise cases would never reach the court for adjucation. This combination of heavy case load and the lack of facilities made the situation very difficult for the judge. It was surprising in fact to see how well the majority of the cases were handled.

The Small Claims Court as it exists today has its deficiencies, and a visit any Wednesday evening to the second floor of the City Court Building will verify that fact. Nevertheless, the Small Claims Court is an important element of an overall state system for the dispensation of justice. This court, with its limited function, can be made into a court which recognizes and understands the concept of justice and the worth of the individual. With a little imagination and cooperation from the bar this court can fulfill its true function; to provide a rough form of justice for litigants with low dollar claims. Its limited function should not prevent the court from following the very best traditions of the judicial system in New York state, as exemplified in the superior courts of the state.

The how and when of change for the most part is in the hands of the bar and the legal fraternity. They have the power and responsibility to make the Small Claims Court a proud element in the total judicial system of the state.

Government Litigation Clinic Will Expand

by Roger Stone

Next semester the government litigation clinic at the school will expand to include several new agencies in an effort to accomodate more students as well to provide more diversity within the program.

New Clinic assignments will include work at the Social Security Administration (Hearing Examiner), the U.S. Attorney General's Office, the trial division of the Erie County District Attorney, and the Buffalo Municipal Housing Authority law division. In addition, there likely will be some positions available working with the Justices in Family Court as legal clerks.

Currently, students are assigned at the District Attorney's Office (Appellate Division), the State Attorney General's Office, the County Attorney's Office, the Buffalo Corporation Council's office, and two students are working with Buffalo Common Council Members.

Professor James Manak, who conducts the government litigation clinic and legal aid clinic programs, is now finalizing plans for next falls expansion. He hopes that more students will enroll as the clinic expands.

This is the initial year of operation for the government litigation clinic at this law school and has met with success. Mr. Manak has received favorable reactions from the various governmental agencies participating in the program. Students have typically found the experience rewarding and have gained an insight into the actual working of a government law office.

A weekly seminar meeting provides an opportunity for students to discuss cases and problems of mutual interest.

It is hoped that with the increased availability of varied clinic assignments, more students will take advantage of the expanded program.

"How I Would Amend The Domestic Relations Law"

by Alan Minsker

During the last several months, I have indulged myself in a Voltairesque passion to chide the folly of the world. In a sarcastic letter, I rasped at our personable new Dean, a real *Mensch*, even if I do abhor his superficial philosophy regarding the right to speak. In a futile attempt to obtain a Reading Week for the Spring, 1971, Semester, I mounted a lame ass and attacked the Prudential Building with little more than a pen for a lance. In another essay, which should also appear in this edition of the *Opinion*, I characterized the New York Family Courts as "animalistic." I had originally intended to make this article so powerful and caustic that it would grasp you by the throat, and kick you in the groin area. But no more of this. Instead, I offer you something poignantly constructive. I, Alan Minsker, misogynist, misanthrop, misomater, misopater, misopan, PanAmist, and punster, put forward four proposals for amending (*improving*) the New York Domestic Relations Law.

1. Dissolution of marriage, or divorce, shall be granted automatically upon the mutual consent of husband and wife in any marriage in which there are no children, natural or adopted. A nominal fee of one hundred dollars shall be charged for each divorce in order to insure serious intent of the parties.

2. In all cases of marriages involving children, either natural or adopted, the following three elements must be pleaded and proved before divorce will be granted:

(1) the complaining party is suffering harm
(2) the children are suffering harm
(3) the cause of the harms suffered by the spouse and by the children is the *marriage*.

3. Alimony shall not exceed fifteen thousand dollars per year.

4. The maximum length of time for which alimony shall be granted is three years.

I journey now to England to study our Common Law traditions at first hand, and I shall not return till fall.

Read again my proposals.

All the rest is silence.

Survival vs. The Status Quo

by Robert R. Rodecker

The World today is faced with a new problem: *Survival*! All the wars of time, the ravages of nature and the most devastating epidemics will pale into insignificance in light of the destruction that mankind is in the process of creating. The destruction is not always intentional, but is the result of generations of ingrained ideas, values and habits. The victim of this destruction is not one country, one race, one species of plant, or animal, nor one person. The victim is the planet Earth. Every country, every race, every species of plant and animal, and every person is involved.

They are involved not necessarily because they want to be, but because they have to be. Simply stated, it is a matter of life and death. The destruction that man is creating is environmental pollution. One may look around and notice the obvious signs of air or water pollution and recall times past when the air was clear and one was able to swim and fish in the ponds, rivers and lakes of our country. Today the air is clogged with carbon monoxide, sulphur dioxide and particulates, and the waters are murky and odoriforous. What caused these changes? What unthinking person would wreak such havoc and for what reasons? The answer lies in the question. These changes, and the rest of the changes that are destroying the ecology of the Earth, are the product of every person in the history of man who has gone through life and thought *only of his own aggrandizement and given no consideration to the effect it would have on others.* The one product of man that has done the most to destroy life, is man himself. According to one noted ecologist, Paul Ehrlich, the population of the world will double within the next 35 years.[1] "So what." some may say, "there is plenty of food and lots of open spaces to handle the increase." Well, 5,000,000 people each year would tell those persons that there was not enough food, if they hadn't starved to death. And the headlines in newspapers that report of riots, epidemics and wars would indicate that the last open spaces are almost gone. Because of the population we have today, the fresh water and clean air are quickly vanishing. The fossil-fuels, food and natural resources required to support the present population are not infinite. This is a finite planet which is fast reaching its limit, and a finite planet can support only a finite population; thus, population growth must eventually equal zero.[2]

Most people would say that there is undoubtedly an untapped technical solution to the problem. But a technical solution is not the answer. This faith in technology is only avoiding the issue and shunning reality. Technology got men to the moon and back, but the effort that that required would only be a start in solving the problem of environmental pollution. The output that would be required will only be induced by the imminence of impending disaster, and by that time it will be too late. The problem must first be faced by the individual. Each person must realize that his potential for destroying the environment lies in his ability to procreate. As difficult as this realization will be, it is only the first (but most important) step to curb environmental pollution. It is not surprising that people tend to look to technology for the answer, but it is discouraging. Ingrained in most Americans is the belief that industrialization and a growing economy are imperatives for a better life, even though these are the two main factors that have contributed the most to deplete and contaminate our natural resources. It is much easier for the individual to consider the problems of the environment and disregard his role in its destruction, by relying on the technical geniuses to come up with the solutions, leaving him to continue his role as a Hedonist. This is a trap. It is the one thing most likely to toll the bell of disaster – man's willingness to ignore the responsibility of life by relying on others to protect his own best interests.

How can this be changed? "We want the maximum good per person; but what is good? To one person it is wilderness, to another it is ski lodges for thousands, to one it is estuaries to nourish ducks for hunters to shoot; to another it is factory land. Comparing one good to another is, we usually say, impossible because goods are incommensurable. Incommensurables can not be compared."[3] But all that is required is a judgment criterion and a system of weighing. In nature the criterion is survival;[4] and so it must be with humans. In many instances one good has been compared to another, but normally for social or economic reasons. To protect our environment then, the good which is most apparently favorable to the survival of the environment is the one which must be accepted.

The United States, like most countries in the world, was once a primitive, unconquered wilderness with plentiful land and resources; today this is not the case. Actions which would have gone unnoticed and been harmless, now are either restricted or outlawed because of their harmful effects. When our country was constantly expanding its frontiers, it seemed impossible that there could be any end to the limits of resources, but with the growth of population and the onslaught of industrialization many changes occured. Because of the increased proximity of one's neighbors, each property owner had to consider the harmful effects his actions might cause others; because of industrialization, huge cities grew around factories and set the pattern for the development of the country. As Garrett Hardin explained: "using the commons (in our case the whole environment) as a cesspool does not harm the general public under frontier conditions because there is no public; the same behavior in a metropolis is unbearable."[5] For generations we have continued to pursue the same course as our forbearers, with few exceptions. The person who owns property situated on a stream or river feels no remorse in polluting the water on his property; once his waste is discarded it becomes someone else's problem. This has not only been true of individual property owners, but also of industry and municipalities. The owner of a factory located on a stream, has traditionally felt a natural right to deposit his waste in the flowing water, completely ignoring its effect on downstream owners. This type of rationale continues until conditions become so unbearable to lower riparian owners, that pressure is brought to restrict the actions of the polluter. Therefore, it is apparent that, traditionally, no action is taken until the damage has occurred. In terms of water pollution, this simply means that as population became denser, and increased waste was dumped into the waters, the natural chemical and biological recycling processes became overloaded.[6] When the natural processes of a water course are overtaxed, the signs become noticeable, thus raising the ire of those affected. The anger of these people is then directed at the government to take effective measures to ensure the protection of their own interests. Thus, "what has ultimately formalized into present concepts of private ownership is the product of centuries of evolution, the necessities of an expanding country, and the acceptance by the state of its fundamental social and political responsibilities."[7] This system of response, based on the rights of an individual to use his property without restriction until the rights of others are infringed upon, was more than adequate in a growing country where individual initiative was the key to success. However, in a complex, developed country this type of thinking is, to say the least, dangerous. By waiting until actual harm can be proved, we are permitting those who cause the harm to continue their actions until such time as damage has already occurred. What type of protection is offered to the victim? The victim is everyone in the world, and to wait until millions die before restricting the actions of the wrong-doer would be absurd. But that is what has traditionally happened. However, merely because the legal system has always acted in this way does not justify its continuing to act this way in the future. Thus, the legal system, is faced with the problem of balancing social and economic interests in order to stave off the potential destruction of our environment.

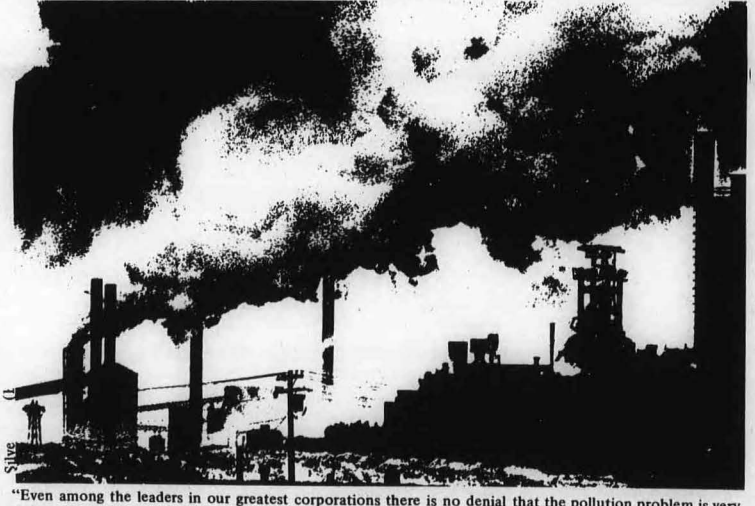
As one noted economist has recognized the interrelationship of society and economy:

> as the American economic system continues its headlong development, each of us must recognize we are all in it. This realization ought to be in two brackets. The system does things to all of us. Equally, all of us do things to it. We are both benefactors and beneficieries, oppressors and victims, masters of it and constrained by it.[8]

Much has been written concerning the feedback that the community gives to industry, shaping its role as supplier of the consumer's demands. But it has also been held that society merely buys and uses what industry makes available and thus is not really indicating any recognition, on the part of industry, of the community's real needs. It is the maxim that "economic organization, in American doctrine, exists to serve life, not to determine it," that must be proved. If this can be shown to be true, then there is hope that the legal system, as protector of society's interests, can bring about an effective change in the economic system we are now locked into. But this is only a hope, and not a reality, for the legal system is a system designed to minimize change and protect the status quo. We are dealing here with a problem that is so fraught with danger that failure to act will result in disaster, and failure to act in a clear and decisive way may also result in disaster. Our system provides for limited change, but can the environment bear the test of time involved? Hopefully we will not have to wait until it is too late. But, what is needed to bring about the changes that are required to deal effectively with the problem? That which is required is a total reappraisal of patterned thoughts and values.

To accomplish this change, it is my contention that the legal system must realize its responsibility to the welfare of the people by shifting the balance of interests from the favor of the industrialists to that of society as a whole. Since World War II our economy has expanded with little or no restriction by the government. But that is understandable since it has been the professed policy of our government to let the economy grow and secure employment for all who are capable of working. It is this ever-increasing growth of industry which has contributed the most marked changes in our environment. And it is this idea of unlimited growth which must be changed in order to ensure us of any future at all, regardless of whether it is the most comfortable or leisurely. The present economic system has matured and progressed by building larger and more expensive cars, more and more household appliances, and innumerable varieties of throw-away and non-returnable items in our interest and at the expense of our future. The American public is presently locked into a frightful dilemma, whereby industry has been able to push its wares off on the unwary consumer. If a "public consensus" really does exist in some areas, it has, so far, not shown its face in the fight to control environmental pollution. It is up to the legal system to take the lead in informing the public, through determined enforcement of strong legislation aimed at these individual polluters.

Robert Rodecker is a second year student at SUNY at Buffalo School of Law. During the summer of 1970 he was a teaching assistant in the Ecology department and is presently a research assistant for Professor Robert I. Reis at the Law School.



"Even among the leaders in our greatest corporations there is no denial that the pollution problem is very serious. The only problem they see is that of economics. According to them they cannot afford to devote the time and technology to discover the most reliable pollution control devices. However, the Earth cannot afford to let them perpetuate their delaying tactics."

According to Mr. Berle:

> however powerless any individual may be to deal with economic organization on the economic plane, he does have, in the American democracy, a solid and respected power in the political field. If enough individuals consider that they are aggrieved, they can energize a political intervention.[9]

Through years of action by aggrieved members of minority groups, some legislation on civil rights has been passed, but implementation has proven even more difficult than gianing recognition. However, the environmental problem does not face the same inborn prejudices that minority rights possess. The ideas and values that need changing are not confined to any one group, but are ingrained in every person in this country. Even among the leaders in our greatest corporations there is no denial that the pollution problem is very serious. The only problem they see is that of economics. According to them they can not afford to devote the time and technology to discover the most reliable pollution control devices. However, the Earth can not afford to let them perpetuate their delaying tactics.

Role of the Legal System

In order for our legal system to act responsibly in relation to environmental problems, there must be a complete reappraisal of its present standards and methods. Traditionally the law has acted according to precedential decisions that in some instances were laid down several hundred years ago. Although in many situation this is still adequate to cope with some of today's problems, it is totally inadequate in dealing with the problem of environmental pollution. More precisely: "analysis of yesterday's opinions without extensive consideration of those opinions in light of today's factual needs represents the thoughts of yesterday and not the thoughts for tomorrow."[10] Therefore, inorder to balance the interests of society and economy, with the criterion being survival, the legal system need only look into the future and determine whether certain activities would be disirable to the survival of the Earth rather than looking to the past and decide whether such activities were at any time in the past undesirable, or would be undesirable in light of today's standards.

The Scales of Justice

A recent case in New York, (Boomer v. Atlantic Cement Co. 26 N.Y. 2d 219 (1970), overturned a standard that had been operative for fifty-seven years. It is typical of our present values and beliefs. In 1907, *McCarty v. Natural Carbonic Gas Co.* held that:

> the ancient maxim of (sic utere tuo ut alienum non laedus) is the foundation of the well established rule that no one may make an unreasonable use of his own premises to the material injury of his neighbor's premises, and if he does the latter has a right of action even if he is not driven from his dwelling, provided the enjoyment of life and property is materially lessened.

McCarty was followed by *Whalen v. Union Bag and Paper Co.* 208 N.Y. 1 (1913) which established the rule that lasted until last year. In that case, the plaintiff, a small farmer, brought an action to restrain the defendant from continuing to pollute the stream which flowed through both properties. It was held that:

> it is error for the Appellate Division to reverse the injunction granted by the trial court, because of the great loss likely to be inflicted on the defendant by the injunction as compared with the small injury caused to the plaintiff's land by that portion of the pollution which was regarded as attributable to the defendant. Such a balancing of injuries can not be justified by the circumstances of the case.

Although the defendant stood to lose more, economically, than the plaintiff, the decision was based on purely equitable principles. As stated in the court's opinion: "denying the injunction puts the hardship on the party in whose favor the legal right exists instead of on the wrong-doer." (Pomeroy's Eg. Jun's vol. 5, s. 530) The *Boomer* decision, however, indicates the change in values that has taken place within the legal system. Instead of adhering to the rule set down by *Whalen*, the court in this case stated:

> The defendant's immense investment in the Hudson River Valley, its contribution to the Capital District's economy and its immediate help to the education of children in the Town of Coeymans through the payment of substantial sums in school and property taxes . . . led to the conclusion that an injunction should not issue.

To base a decision which involves the health and lives of many people on purely economic principles is, to say the least, absurd; and yet this was the fundamental reason expressed for deciding against the injunction.

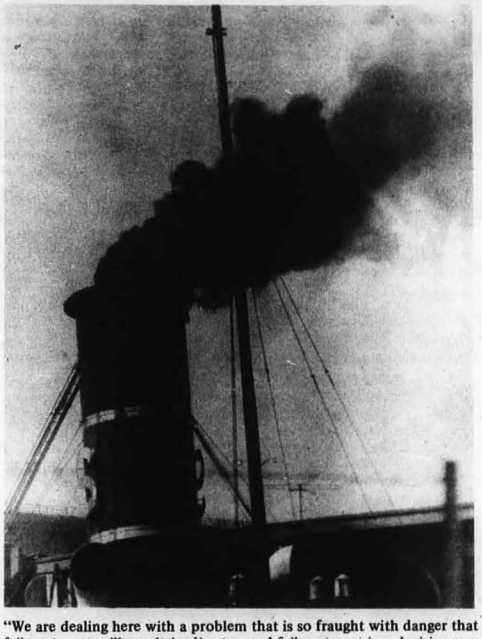
The court in *Boomer* was offered a number of possible sanctions to impose on the Atlantic Cement Co. One of these choices would have been the imposition of a permanent injunction which would have the effect of closing down the plant's operation. This was obviously not to the liking of the court, but would have been directly in line with the rule laid down by *Whalen*. The court recognized this; but held that: "by denying an injunction the result is a departure from a rule that has been settled; but to follow the rule literally in these cases would be to close down the plant at once."(*Boomer* at 25) Another possibility would have been the imposition of temporary damages, whereby the plaintiffs would be able to continually bring actions against the defendant, until such time as the defendant was able to bring his pollution under control. The court, however, in order to prevent a multiplicity of suits, granted an injunction subject to be vacated upon payment of permanent damages to the plaintiff. The theory of damages being the "servitude on land" of plaintiffs imposed by defendant's nuisance. As espressed by the lone dissenting judge in the *Boomer* decision:

> In permitting the injunction to become inoperative upon the payment of permanent damages, the majority is, in effect, licensing a continuing wrong. It is the same as saying to the cement company, you may continue to do harm to your neighbors so long as you pay a fee for it. Furthermore, once such permanent damages are assissed and paid, the incentive to alleviate the wrong would be eliminated, thereby continuing air pollution of an area without abatement.

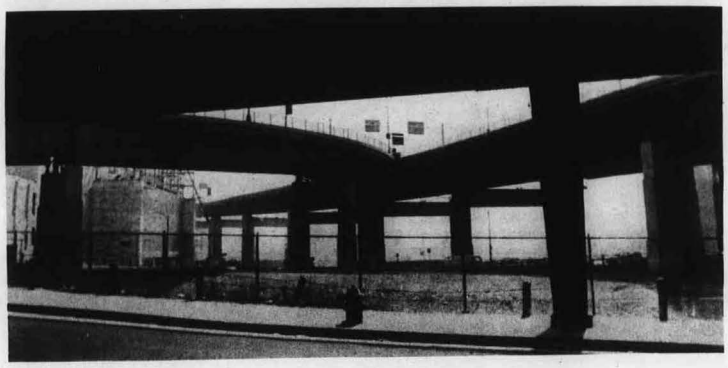
Judge Jasen's appraisal of the problem seems to be much more atuned to the danger of permitting continuing wrongs to go on uncontrolled, with no penalty other than the imposition of a single pecuniary settlement. His suggestion and reasoning should be noted:

> I would enjoin the defendant cement company from continuing the discharge of dust particles upon its neighbors' properties unless, within 18 months, the cement company abated this nuisance.
>
> It is not my intention to cause the removal of the cement plant from the Albany area, but to recognize the urgency of the problem stemming from this stationary source of air pollution, and to allow the company a specified period of time to develop a means to alleviate this nuisance.
>
> I am aware that the trial court found that the most modern dust control devices available have been installed in defendant's plant, but, I submit, this does not mean that *better* and more effective dust control devices could not be developed within the time allowed to abate the pollution.
>
> Moveover, I believe it is incumbent upon the defendant to develop such devices, since the cement company, at the time the plant commenced production (1962), was well aware of the plaintiffs' presence in the area, as well as the probable consequences of its contemplated operation. Yet it still chose to build and operate the plant at this site.
>
> In a day when there is a growing concern for clean air, highly developed industry should not expect acquiescence by the courts, but should, instead, plan its operations to eliminate contamination of our air and damage to its neighbors.[12]

As convincing as this opinion may be, it was obviously not strong enough to sway the other members of the bench. How people can continue to weigh their lives against the benefits derived from the continued production of cement, and come out in favor of the cement company is difficult to comprehend. Until the courts begin to realize the importance of the problem, these decisions will continue, and in their wake will follow the increased destruction of our environment. The industries, by themselves, will do no more than accept the best present methods of controlling their waste. It is up to the courts to stop taking accepted standard as controlling and force the industries to continuously improve and eventually prevent all types of pollution. As long as industry is granted their way, the harms that are produced will not decrease through "the most modern control devices available," but will, instead, increase because of the belief that technology will find the answers to the problems of the environment. Although most industries are devoting some time and money to these devices, it follows the old adage of "too little, too late." The longer this type of reasoning continues, the less likely the survival of our environment becomes.



"We are dealing here with a problem that is so fraught with danger that failure to act will result in disaster, and failure to act in a decisive way may also result in disaster."



". . . the legal system is designed to minimize change and protect the status quo."

Alternatives

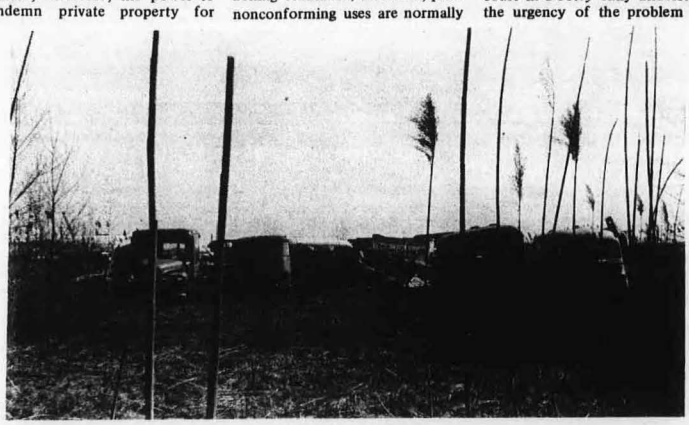
What has been presented as an almost simple answer to the problems of environmental pollution is, of course, much more involved than simply deciding that whatever is harmful to our environment must be eliminated. However, until the urgency of the problem is realized, little or nothing will be accomplished by ignoring the obvious signs of pollution. In order for any positive change in our present concepts to be accepted, viable and effective alternatives must be presented. As evidenced by the *Boomer* decision, even then the likelihood of change is not very high. The courts can not attack the problem alone; it must be an all-out realization in all segments of our government. Positive and effective legislation must be forthcoming, based on land, air and water quality preservation. This is going to come into conflict with one of this country's most cherished traditions, private ownership of property, and may prevent the acceptance of any meaningful action on a country-wide basis. The only hope of success in restricting private property, is an overall awareness of the urgency and necessity of this drastic measure.

The present methods of restricting the use of private property are basically: nuisance law, as evidenced by the *Boomer* case Supra., the use of eminent domain, and the use of the police power through such measures as zoning ordinances and building regulations. The nuisance laws were adequately summarized in the *McCarty* decision. The other two methods are the two underlying principles of land-use control, and will, most likely, prove to be the most significant tools of government in controlling

(continued on page 8)

Survival cont'd

environmental pollution. The main distinction between these two governmental powers is compensation. The power of eminent domain is an inherent attribute of sovereignty, and through constitutional limitations the government is required to pay "just compensation" for any land taken. The police power, however, does not require compensation for the diminished value of the land that is regulated. Unlike the State, the municipalities have no inherent power of eminent domain, therefore, the power to condemn private property for



"... it is apparent that, traditionally, no action is taken until the damage has occurred."

governmental use must result from an express statutory authority from the State.

To justify the infringement of and degree of restriction upon an *individual's private property* under land use controls, the acceptance by the community, depends upon the reasons for and the necessity of such measures. Traditionally, this acceptance has been generated by a balancing of the benefit to be received by the community as a whole, against the loss to the individual whose property is being restricted or taken.[13] In a survival context, the justification of land use controls would appear very simple, i.e. the benefit to the community (survival) would be infinitely more important than the economic loss to the individual. The test must be, are certain activities and use compatible within a survival framework? Instead of relying on traditional balancing of interests, it is imperative that the criterion of survival be used in order to achieve a "better ordered land use".

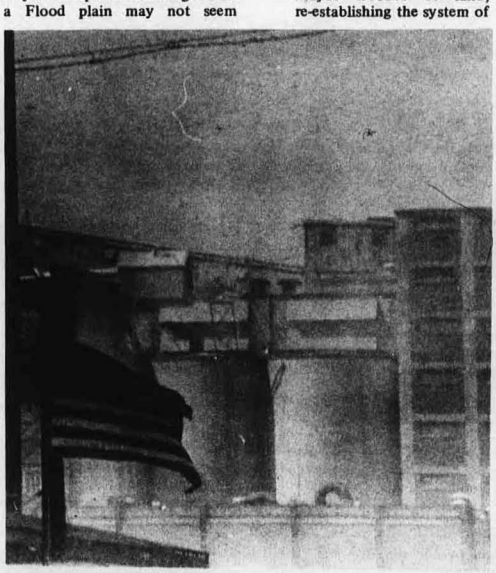
Although both governmental powers; eminent domain and the police power, should prove effective in the control of environmental pollution, it is obvious that one problem immediately arises with the use of eminent domain. That, of course, is money. The governmental acquisition of private property through eminent domain is a very costly enterprise, and to apply this method singularly, for pollution control, would be impossible. For this reason, the police power may have a decided advantage for the purpose suggested here. One of zonings chief attributes is its flexibility. While this may be a definite advantage in customary zoning practices, it could be very harmful in regulating land-use for pollution control. For example: zoning ordinances normally provide for the granting of variances for those who can show that as applied to them, the ordinance poses a unique and special hardship, so as to amount to a taking of the property, without just compensation. To avoid paying for the property, the administrative body will typically grant that individual a variance and permit the land owner to use his land in a manner incompatible with the intent of the ordinance. Also, it has been very difficult in the past to eliminate nonconforming uses that existed prior to the enactment of the zoning ordinance; therefore, prior nonconforming uses are normally exempt from the restriction of the ordinance. There have been exceptions, whereby a prior nonconforming use has been given a specified length of time to conform to the ordinance, (e.g. – *Harbison v. City of Buffalo*, 4 N.Y. 2d. 553, 152 N.E. 2d 42, 1958), but this is not the rule today. In addition to the variance and prior nonconforming uses, zoning also can be modified by rezoning, special permits and exceptions, and floating zones. All of which are provisions for the orderly and reasonable application of the restrictions imposed by a regulatory measure. However, if zoning, as one method of the police power, were used within a survival framework, these modifications could limit the effectiveness of the measure to a point where only new uses would be regulated, and those that had already existed and were creating the harms prior to the enactment of the regulation, would continue to carry on their activities as before. This would be anathema to a workable program to control environmental pollution.

In the case of zoning, it is not difficult to show that the courts have consistently followed the same type of reasoning as was evidenced in the *Boomer* case. In *Dooley v. Town Plan Zoning Comm'n*, (151 Conn. 304, 197 A. 2d. 770, 1964), the Town of Fairfield enacted a flood plain zoning district restricting the use of land within the district to parks and recreational facilities, governmental wildlife sanctuaries, farming, and accessory motor vehicle parking. The court held that this was unconstitutional in that the use of the plaintiff's land had, for all practical purposes, been rendered impossible. Again, the balancing of public and private interests resulted in favor of the one who had the greatest economic loss, and not in favor of the public health and wlefare. It seems almost incredible that a decision could be returned in favor of someone wishing to encroach on a zoned Flood plain, when such action is considered in a survival context. In Section 1 of the Standard Zoning Enabling Act, of 1926, the first sentence indicates that: "For the purpose of promoting health, safety, morals, or the general welfare of the community, the legislative body of cities and incorporated villages is hereby empowered to regulate and restrict ... the location and use of buildings."[14] And yet, when a zoning ordinance was enacted to restrict uses within a Flood plain, an individual's use of private property was more important than the harmful effects that such a use could generate within that area. Had the court in *Dooley* fully understood the urgency of the problem and considered the possible harms attendant upon building in a Flood plain, the balancing of interests would necessarily have to swing over to the public health, safety and welfare. Instead, the court, in protecting an individual's economic loss, threatened the ecological balance of a water course, the full effects of which may just be beginning to appear.

In order for any decisive change in existing regulations to become effective, the numerous harms, both social and ecological, must be enumerated and presented within a survival framework. Whereas the instance of just one person building within a Flood plain may not seem immediately or eventually harmful, the possibility of destroying a vital ecological area is very high. The interrelationship of all forms of plant and animal life, and the effect these have on human necessities, must be taken into consideration. In order to regulate land use for open land or air and water quality purposes, the objectives which underlie such regulation must be clearly and precisely stated. Thus, the uses which would be harmful within such a framework would be very easily distinguished by relating them to their possible harms, with survival being the standard. With these objectives and the criterion established, any legislation or exercise of governmental powers could respond to the goals established and not to the problem which already exists.

Section 3 of the Standard Zoning Enabling Act, requires that "such regulations shall be made in accordance with a comprehensive plan ..."[15] Therefore, any regulation of land use within a survival context, (e.g. water quality) would have to indicate the desired objectives for the area being regulated, and would also have to indicate restricted uses and possible harms caused by such uses. Only those industries and private owners who conform to the specified water quality standards would be permitted to use the land to their benefit. Thus, prior nonconforming uses would either have to conform to the standards; through recycling, renovation or other methods, or they would be forced to leave their land. Variances would not be permitted unless it could be shown that the use proposed by the applicant is proved to have no deleterious effects on water quality or any ecological system. As indicated by Mr. Reis in his paper on Open Space Preservation, there are three major fears which result from increased use of eminent domain or the police power, they are:

1) The fear of continued reduction of valuable land within the private sector.
2) The fear of never-ending growth of governmental interference with the normal processes of life and,
3) The fear that the government will become the major holder of land, re-establishing the system of tenure which once existed at common law in the Feudal system.[16]



"Ingrained in most Americans is the belief that industrialization and a growing economy are imperatives for a better life, even though these are the two main factors that have contributed the most to deplete and contaminate our natural resources."

These fears will only be allayed upon the realization of the necessity of governmental intervention, and the realization that the "normal processes of life" will not be interfered with, but will be enhanced.

Conclusion

How likely is it that any of these changes in ideas, values and beliefs will ever come about? Some say that they will never be realized, others contend that people are changing and that the future will be taken care of by the technical solutions. To this writer it does not seem likely that these changes will come in time. Only a great disaster or a common struggle will bring about the needed awareness of the urgency of needed action. The vested interests which must realize their part in the struggle are not only the industrialists, legislators and jurists, but especially the common man. The common man is everyone, and everyone must bear the strain of change. Man is a selfish creature by nature. To ask him to give up his car, washing machine and right of private property, in order to protect his fellow man and his whole environment, will most certainly meet with no great approval. But that is what must be done. There was a time when a man could do as he wished, within limits, and concern himself only with the betterment of himself and his family. Today, the world is smaller. It has not changed in size, but by virtue of communication, transportation and exploding population, the earth has shrunk to the point where man can no longer disregard the effects of his actions upon others. Perhaps the one action which we, as Americans, must be most careful of is inaction. Because of our prosperity, resources and technology, we have the capability of doing the most to stem the tide of environmental destruction, but it is our complacency and self satisfaction which may prevent us from exercising our capabilities to achieve this goal. By the time our country fully realizes its responsibility to the world, it is likely that those resources will be reserved, out of necessity, to the protection of this country alone.

FOOT NOTES

1. P. EHRILCH, *The Population Bomb*.
2. HARDIN, *The Tragedy of the Commons*, in *THE ENVIRONMENTAL HANDBOOK* (1970).
3. Id. at 34.
4. Id.
5. Id. at 40.
6. Id. at 39.
7. Reis, *Legal Framework For Open Space Preservation* in *Expanding Urban Areas*, Bulletin 567 Northeast Regional Resource Economics Committee 8,14 (1968).
8. A Berle, *Power Without Property*, 24 (1959).
9. Id. at 91.
10. Reis, supra note 7 at 10.
11. *Boomer* v. *Atlantic Cement Co.* supra at 230.
12. Id. at 231, 232.
13. Reis, supra note 7 at 28.
14. U.S. Department of Commerce, A STANDARD STATE ZONING ENABLING ACT, (1926).
15. Id.
16. Reis, supra note 7.

Women Students Attend National Conference

Four first year students from SUNYAB School of Law attended the National Conference of Law Women held at the University of Chicago Law School on April 2-4. The students, Yvonne Lewis, Rachael Mueller, Barbara Clinton and Sally Mendola met with approximately 150 women law students and attorneys from across the country to discuss topics ranging from the problems of women lawyers to the general legal problems of women in our society.

The following is a preliminary report of the conference by the students:

"Friday night's program consisted of a panel discussion with questions and answers. The panel consisted of practicing women attorneys representing the diverse fields of Public Defender (Carolyn Jaffee), small firm (Helen Jones), Legal Aid (Jane Stevens), sole practice (Renee Hanover), State's Attorney (Lucia Thomas), and the Law Commune (Susan Jordan).

"Saturday Afternoon, Florence Kennedy and Diane Schulder (*Abortion Rap*)spoke.

"The remainder of Saturday was devoted to workshops.

The Topics were:

1. *Radicals as Lawyers* - coordinator: Renee Hanover
2. *Legal Workers* - dealing with the question of legal jobs for those who never went to law school, professionalism, elitism, role of legal secretaries.
3. HEW Regulation Enforcement - dealing with discrimination.
4. *Title VII Enforcement* - dealing with discrimination.
5. Should a Woman go to Law School? - recruiting women, students, professors, part- time study.
6. *Women and the Law*: A Law School credit course - discussion of the Yale course with Ann Friedman.
7. Protective Legislation.
8. *Abortion*
9. *Women Up Against the Criminal Justice System* - women in prison (30-35% for prostitution at Women's House of Detention according to Vera Institute study)
10. *Getting a Job After Law School* - job placement, job discrimination, forcing law schools to act.
11. *Sisterhood: Relationship of Law Women to Women's Liberation Movement* - Coordinator : Joreen.
12. *Poor Women, The Law*, and *The Women's Movement* - coordinator Ginger Mack, Chicago NWRO.
13. *Survival in Law School.*
14. *Legislative Reform*

"Saturday night, Mickey Lena (Chicago) spoke by request on the Angela Davis case. Sunday morning, regional meetings were held. Sunday afternoon, we considered resolutions at a plenary session.

"A resolution naming Angela Davis and other women political prisoners was defeated in preference for one which urged the freedom of women prisoners in general. A discussion of Ralph Nader's proposal for a women's law firm focused around the sexist aspect. Some discussion ensued on the class-elitism angle - i.e. Nader's proposal to recruit at NYU, Harvard and Yale for women to establish a Washington-based women's law firm to research projects to be designated by Nader. The women from the above-named schools seemed to have focused on the sexist angle. They were reminded that there are law schools in the rest of the country too. Some people felt that elitism was just as important as sexism.

"Another major issue which surfaced at the conference was the relation of black women to women's liberation. This was raised by several black women from Texas Southern Law School. They felt the conference as a whole was irrelevant to their needs. Apparently, the Chicago women who planned the conference did not expect any black women to attend since the black women at the U. of Chicago were not supporting the conference. A resolution was offered at the plenary session dealing with this question.

"Several new women's publications were announced. One important one is the 'Women's

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Phi Alpha Delta

New Officers Elected

The Carlos Alden Chapter of Phi Alpha Delta, at its meeting on Friday, April 23, 1971 elected its Executive Board for the 1971-72 academic year. The newly-elected Board members are:

Justice – Mark Farrell
Vice Justice – William Lobbins
Secretary – Timothy Kane
Treasurer – Richard Weinstein
Marshall – Richard Clark

These gentlemen will be installed at the closing affair of the fraternity on Firday night April 30, 1971 at the Park Lane Restaurant.

The fraternity will induct its new members on Friday afternoon April 30th in Part IV of County Court. At that time Judge Joseph Mattina will be inducted as an honorary member of the Chapter.

New P.A.D. officers (l to r) Richard Weinstein, Treasurer, Mark Farrell, Justice, and Bill Lobbins, Vice Justice.

Notes From Elsewhere

by Mike Montgomery

Matrix *Washington College of Law, American University*

Professional Police Education

Most social scientists and many students of the law enforcement problems in urban areas point to the strategic use of higher education as a means of changing the police for the better. Dream on, says Jackwell Sussman, Research Coordinator of the Institute for Studies on Law and Social Behavior. Such efforts, he claims, are irrelevant because they are based upon false assumptions and offer no reward to the police. Intrinsis to Mr. Sussman's argument is the theory that higher education has itself been oversold through hubris and to garner financial support. In any event, he claims the goals of increased efficiency and responsiveness to the local community are mutually exclusive. True to the radical analysis, Sussman alledges that the policemen's need to dominate and control may be realized without restraint because the people they interact with the most are the poor, the young, and the Black – all with no power or standing in the community.

As for the University as a means of educating cops, it is also alledged that there is no core of knowledge or theories or policy usable as a basis for professionalizing the force. Thus, professional education of police is not possible.

From a teleological viewpoint, Sussman suggests a redefinition of the role of the police in society and a greater specialization, with the need for reward structure in each specialty as encouragement.

Goodell is Still Around

Former Senator Charles Goodell is still marching for peace under his dove, although said bird has lost a few feathers since Jim Buckley lit a torch under it and Spiro drowned it in ouzo. In a special article for their paper, Goodell likened the war in Viet Nam to a Loathesome Disease which fades only to break out again with greater virulence.

The former Senator's first target was air escalation over the North. He pointed to the bombing threats from Milhous and Laird's comment that lack of progress in Paris is adequate cause for renewed bombings as our indication of this possibility. With such escalation as a given, the scapegoat Republican decried Nixon's claim that his moves will save American lives. He even accused Tricky Dick of attempting to out-escalate Johnson – an attempt which, as the prominent anti-war ex-legislator might note, would merit a place in any man's book of records if successful. Like an Argonaut of old, he pointed out that RMN is steering his ship of state in a reptilian and dangerous course twixt the Scylla of Chinese intervention and the Charybdis of Russian involvement. Goodell has already conceded Laos and Cambodia to the North Vietnamese – all caused by Nixon's own interventionalism.

The gist of his message was this – permanent reliance on U.S. military power is dangerous and not effective. The immediate answer: get out.

The Gavel *New England School of Law, Boston, Mass.*

Police Education Again

In contradistinction to Sussman of American U., one may note that NESL is attempting to do what Sussman considers impossible, namely to teach the cops. This Boston Law School claims to be the first to start a program under the Department of Justice and Omnibus Crime Control Act of 1968 in the education of law enforcement officials. The program is seen as an implementation of Nixon's crime program to combat lawlessness, to stop the tide of criminal behavior overshadowing the civilised life of Middle America.

Law Quandrangle Notes *University of Michigann*

"Whirr, click, whirr, from a 'lectric blob, IBM says you've lost your job."

Computers in the law? Prosser save us from such a mechanistic fate. My old friend Rhadamanthus von Berolfingen, Professor of Defenestration at Prague (Presently on Sabbatical in Yakutsk, Siberia) would never lend his consideration to such a pact with the Devil. After all, it might be efficient. God help the legal profession at such an unhappy eventuality. Such feeble attempts at humor aside, a U.M. prof is involved in the experimental programming of computers for the solution of legal problems. Professor Arthur Miller, the man behind the whirling tape storage desks, observed that the legal profession is, like many others, a victim of the information explosion. Thus law officers and schools are losing their capability to store such stuff, cull through it, and particularly remember it with any degree of accuracy.

How are you going to explain to the alumni that an IBM 360 was just made editor of the Law Review?

The Barrister *University of Miami, Florida*

Interested in taking a dive without having to become a professional wrestler? Well, if you don't want to tackle Kurt von Hess or Ernie Ladd in the Aud., script in hand, you might try for an LLM in Ocean Law, offered by Miami in conjunction with the Rosenthal School of Atmospheric and Marine Science. Ocean Law is described as "public order of the ocean environment." It includes courses in ripuarian rights, international law, admiralty law, and interdisciplinary courses in fishery management, marine geology, and oceanography.

I can see myself now – in conference with Charley the Tuna suing Star Kist for intentional infliction of severe emotional distress.

Where else but at Miami would the cover of the law school paper consist of a full color picture of a pelican winging over blue waves frosted delicately with a lacing of white spray. Not a bad image to rest one's mind in contemplation thereof, come to think of it.

Obiter Dicta *Osgoode Hall, Toronto*

Radical Apathy in the North

Some acquaintances of mine at Osgoode (bless their bi-cultural souls) have come up with a number of novel ideas about legal studies. Masquerading under the name of Gamble Benedict Jr. (remember her?) they suggested that the curriculum be expanded to include weekly rap sessions with the Dean as a credit course – being about as well-attended as most of those currently inflicted upon the student body.

Finest thought of all was the proposal that exams *not* be marked by members of the legal profession, since such individauls would not acquiesce to the " . . . airy-fairy bullshit that some of the super cool and ultra-liberal professors dish out as law." Suggested seminar topics were "Test Tube Babies and the Law," and "Nucleated Families as a Viable Institution Today."

Balsa Attacks Bar Exam

A re-examination of the shopworn and discriminatory processes by which attorneys are admitted to the bars of the various states is long overdue. Although these processes appear fair and objective on their face, they in fact operate to assure that the membership of the bar will remain predominately white. Most members of bar association boards of examiners are white, and some from backgrounds and types of practice that do not remotely resemble the kind of practice that black lawyers are usually engaged in. As a consequence, the bar exam is aimed at specialized areas of knowledge in which lawyers who intend to practice in the expanding areas of poverty and consumer law have little interest and in which they may have, quite understandably, little expertise. It therefore works to the benefit of lawyers whose practice is going to be altogether traditional, and to the detriment of those whose practices may be more experimental and innovative. The effects of thisextend beyond racial considerations, of course, since white lawyers as well as blacks who aim at careers in poverty law are put at a disadvantage by the current bar exams. It is the racial discrimination inherent in the bar exams, however, that is particularly invidious despite the protestations of almost every segment of the legal fraternity concerning their commitment to increasing the number of black lawyers, the remains that the structures of the profession still make any such increase impossible, and no significant effort to reform those structures has yet been forthcoming. The law schools themselves are greatly at fault, of course, but the bar exams, too, bear a considerable share of the blame. It is imperative that tests for the admission of black lawyers be reconstituted and made relevant to the kind of practice that they are in fact going to be engaged in. Black applicants for the bar, in other words, should be tested on their knowledge and expertise in the areas of law in which they intend to put their talents to use. As presently constituted, however, bar exams are wedded to the traditional indices of legal competence, and in measuring legal skills only in terms of those indices, they are indisputably racist.

WOMEN STUDENTS

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Rights Law Reporter' (180 University Ave., Newark, New Jersey, 07102). This is to be a clearing house for relevant developments in women's law. The first issue appeared in January 1971 ($1 at above address).

"The American Association of Law Schools special committee on women in Legal Education has published the results of a questionnaire sent to law school deans. The results show that over the last four years, the percentage of women entering law schools has increased from 4.30% to 7.82%. However, this rate is only a fifth of our proportion of college graduates (40% est. in 1970-71). Women law faculty constitute 2.39% of full professors and 6.16% of assistant professors. Three schools reportedly have established day care centers.

"Verbal ammunition from practicing women attorneys:

"My name's not baby, it's counselor . . ." (Susan Jordan)

"Cure poverty by going where the money is . . ."(Florence Kennedy)

"Men don't know how to act towards a woman who won't be intimidated." (Renee Hanover)

"Comment from a male adverse attorney giving in on a point:

"Just so the little girl won't cry . . . (Jane Stevens)

"Law is a good hustle . . ." (Florence Kennedy)

P.S. Renee Hanover and Susan Jordan have been wearing pants to court in Chicago."

Graduation Plans Announced

The Fifth Annual Hooding Ceremony of the State University of New York at Buffalo Law School will take place on Thursday evening May 27, at the Mary Seton Room at Kleinhans Music Hall at 7:30 p.m.

The Mary Seton Room has a capacity for approximately 875 persons. Therefore, each senior can bring about five guests to the Hooding Ceremony. Kleinhans Music Hall has adequate parking facilities and is centrally located. A cash bar is available for the guests and refreshments will be served after the ceremony.

Graduates and faculty are expected at the Hall at about 7:00 to run through the ceremony to avoid snags.

The Rev. Hugh G. Carmichael will deliver the invocation and Howard L. Penny, organist, has been retained for the evening. A class gift to the school has been obtained by the chairman.

It is recommended that the law graduates attend the graduation ceremony at the Main Campus on May 28, at 10:30 a.m. Rehearsal is at 9:30 on that morning. The ceremony will take place on Rotary Field. There is no limit to the number of guests the graduates can bring.

After due investigation, the majority of the senior class wishes to wear the traditional caps and gowns. The caps, gowns and hoods will be rented at 9.50 complete cost. Each senior may keep the tassell. The caps and gowns can be worn on both occasions.

The first fitting will take place on Monday, April 26 from 10:00 a.m. to 1:00 p.m. The second fitting will take place on Thursday, April 29, from 1:00 p.m. to about 5:00 p.m. in the Lounge.

There will be printed invitations and tickets for members of the graduating class.

The Opinion Is Growing but it needs your help!

1970-71 Opinion Staff. Kneeling (l to r) Mike Montgomery, Ass't Editor, John Samuelson, Editor-in-Chief, Malcolm Morris, Business Manager, George Riedel, Ass't Editor. Standing (l to r) Jeff Sommer, Samuel Newman, Joseff Keefe, Alan Minsker, Bill Lobbins, Samuel Fried, Bill MacTiernan. Absent from picture: Rosalie Stoll, Jeff Spencer, Kathleen Spann, Richard Weinberg, Paul Stavis, and Alan Snyder.

Come join our staff. All positions are open for next year.

Contact John Samuelson

Distinguished Visitor's Forum

Schroeder Speaks On Role Of Federal Prosecutor

by Mike Montgomery

H. Kenneth Schroeder, U.B. Law Alumnus and U.S. Attorney for the Western District of New York, in Buffalo, spoke before the Law School on his own role in enforcing the law in society April 16. He delineated his prime role as that of protecting the citizens, of balancing the right of an individual suspect with the benfits and interests of the citizenry as a whole. One surprising statistic he offered for consideration was that in 80% of the cases brought up in W.N.Y. for Federal action, his office declined to prosecute, despite the misconceptions and allegations of many that the Government indicts every suspect. His role is to balance, be fair, and screen out those cases where prosecution of picayune matterrs would not be of great public benefit. An example of those cases which the Attorney's office does prosecute in Buffalo are bank robberies, presently enedmic on the Niagara Frontier. Mr. Schroeder indicated that rapid action in this area was necessary as a warning and deterance to incidents where 16 year old kids walk into a bank for a hold-up because they have heard of no prosecution in the area.

One of the hardest areas for the U.S. Attorney was the area of so-called political prosecutions. Mr. Schroeder attempted to counter the impression in the minds of many that a fearless, souless establishment is out to oppress dissent. He commented that many equate working for the Government with evil, a narrow-minded, even bigoted position, although admittedly not everyone does their job too well. Such is also true, however, in the ACLU or any other line of work. One well-deserved target for Mr. Schroeder's criticism were some narrow-minded allegedly liberal academics who automatically put down all those who don't agree with their philosophy, who tend to repress or shout down their opponents in debate who disagree with them.

In response to questions concerning the subpoena power on records as a deterance to free speech and free press, the U.B. alumnus noted that the media certainly has the right to protect the identity of its informants, but stated that where there was a completed media package for public presentation then the document or film clip should be subject to the subpoena power. If the material is being put together for free discrimination anyway, there would be no harm in exposing to a court what was intended in any event to be exposed to the world.

Mr. Schroeder emphasized the power and responsibilites of the Fourth estate, which he described as having more power in society than any other force, including the Government, because of its captive audience. The media has the last word, for in any attempt to rebut their interpretation an opponent can reach the audience only through the media itself.

One field of the federal system which came under criticism from Mr. Schroeder was the lack of flexibility for bargain pleas. Since there are few misdemeanors available on the books, where a penalty less than a felony would have been appropirate, on many occasions his office has had to strain things considerably to break a charge down from a felony to a misdemeanor.

U.S. Attorney H. Kenneth Schroeder speaking in Room 110 last week.

In commenting on a question concerning the number of blacks working in the Justice Department, the speaker observed that there is a tendancy among young lawyers not to be a prosecutor or work with the Government especially among blacks who would prefer to fight oppression rather than prosecute.

One Freshman member of the audience painted the 1899 Rivers and Harbors Act as a means to fight environmental problems their injuctions or criminal sanctions against firms such as Bethlehem Steel. Mr. Schroeder commented that such basically criminal statues are not appropriate means to eliminate or solve all social problems in the U.S. being rather a last resort, because of their characteristics as a Democlean sword. It would be better to have industries work to clear up an area gradually than have them plead guilty and pay a fine, with the situation remaining unchanged. As for shutting down a plant, Mr. Schroeder did not consider such action appropriate, particularly where an industry is doing its best, because the resultant job layoff would have a disasterous economic effect upon the community. Such procedures would be appropriate only where

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Radical Law Collective Prepares Study Outline

A group of 14 Freshmen law students known as the Radical Law Collective have prepared and printed an extensive outline for the study of Environmental Management, a course currently required for Freshmen in the second semester.

The group states in their introduction to the material that the project "was initiated as a beginning toward collective attempts to grasp and master the materials in our classes. Our feeling is that learning is something best accomplished in a group – with the benefit of others' suggestions, criticisms and stimuli."

They cautioned the user that "This outline is not presented as a substitute to class attendance or reading and briefing the materials" himself.

Exerpts from the text of the introduction follow:

We are doing this not only out of our belief in the value of collective effort, but also in reaction to the emphasis on competition and individualism which permeates our academic existence. This fragmentation is not simply characteristic of our academic life, but is a reflection of the values fostered by capitalism. We have been taught that individualsim and cut-throat competition are the pillars of our system. While labor competes for jobs and students compete for grades and admissions, the very same persons who mouth these individual values conspire together to control distribution, set prices and insure a market for war materials. They have learned the value of collective action and have used it to control our existence. It is time for us to overcome the false-morality we have aculturated and join together in struggle to regain control over our own lives.

This outline is clarly the work of different people, each having varying approaches to the material. No attempt was made to edit the various sections or to make them uniform in style or approach. We felt incapable of saying any one way was superior to another. What works for one of us may not work for someone else. Therefore, please use these outlines as you wish. We have purposely left margins and printed on one side of the paper only so as to make this easier for you to read and comment upon or edit.

For ourselves – we plan on breaking into smaller groups in order to go over the course material in its entirety and hope that you too will use a collective approach.

News Briefs

NCLU NEEDS HELP

The Niagra Frontier Chapter, New York Civil Liberties Union, needs your help. Law students can contribute time to any of our many projects–Prisoner's Rights, court records, trial watching, for example–or help our staff attorney in the office. Or initiate a civil liberties project of your own.

If you have some time and want to spend it working in law for the public good, contact our office: 1370 Main Street corner of West Utica (883-0946)

FEE REFERENDUM

Richard A. Siggelkow, Vice President for Student Affairs for S.U.N.Y.A.B., has notified the SBA that the student fee referendum held at the Law School on March 26,1971, is invalid. In accordance with Resolution 71-90 adopted by the Board of Trustees, each component of the State University system must, prior to the end of the 1970-71 school year, determine by referendum whether student activities programs shall be supported by either voluntary or mandatory student fees. In such referendum the officially adopted ballot form must be used, insuring uniformity throughout the state.

Such referendum will be held at the Law School on Thursday and Friday, April 29 nad 30, 1971.

LIBRARY BROWSING COLLECTION

As an experiment, the library has set up a browsing collection of magazines and paperbacks in the reading room. The paperback collection initially consists of 35-40 titles, and will consist of approximately 200 titles by May. Circulation is on the honor syste; books should be returned as soon as possible to allow for a wide circulation.

The collection has been set up as an experiment. If the books are used and returned, it will be continued next year.

Your suggestions would be appreciated.

CORPUS JURIS AWARD

Senior law students who wish to be considered for the Corpus Juris award based upon performance in the current academic year must apply on or before May 7, 1971. Details upon performance in the current academic year must apply on or before May 7, 1971. Details can be found in notices posted in both the Eagle Street and Prudential Buildings.

PRIZES ANNOUNCED

The following prizes have been awarded on the basis of performance in 1969-70:

1. Corpus Juris Secundum Student Award-
   Norman Rosenberg of the Junior class.

2. West Hornbook Award-
   Grace Blumberg of the Junior class and
   Michael Calvette of the Freshman class.

3. Sprague Scholarships-
   First prize: Michael Calvette.
   Second prize shared by: Bernard Brodsky, Norman A. LeBlanc, Samuel J. Palisano, and John C. Spitzmiller

4. Clinton Scholarships
   First prize: Grace Blumberg.
   Second prize shared by: Barry Gassman, Daniel J. Murray, Bruce Norton, Norman Rosenberg and Gregory Stamm

STRASBOURGH PROGRAM

Those students going to Strasbourgh, France this summer to attend the Human Rights Seminar please contact Professor Buergenthal about registration and credit immediately.

SUMMER SESSION

In addition to the courses listed in the last issue of *The Opinion* the following courses may be taken for credit this summer by law students:

L-420 Problems of Environmental Quality (Reis), 9:30 - 10:50 a.m.

L-454 Juvenile Courts (Teitlebaum),11:00 - 12:20 p.m.

Classes will be held at Ridge Lea and will be in the first session which runs from June 7 - July 16, 1971.

MATTACHINES NEED AID

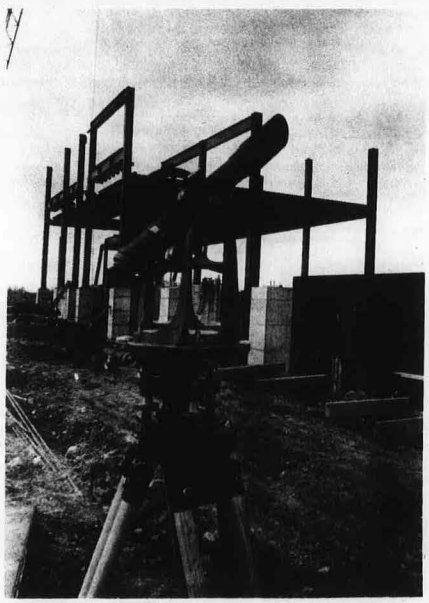
Do you believe in the rights of homosexuals?

The Mattachine Society of the Niagara Frontier, an organization formed for the protection and extension of rights of sexual minorities, desperately needs members with some legal training. The Society is constantly faced with situation of police harassment and entrapment and conflicts with the State Liquor Authority. In addition the Society is interested in extending the rights of sexual minorities in employment and housing. Legal advice in the area of public demonstrations and picketing is also becoming more and more useful to homophile organizations such as the Mattachine Society.

If you would like to help in either an official or informal capacity, please call the Society at: 854-9170

Report From Amherst

New Law Building Takes Shape



by Joseff Keefe

On Tuesday, May 11, 1971, at 3:00 P.M., a ceremony to set the cornerstone on the new Law and Jurisprudence Building will be held on the Amherst Campus of the State University. Although the law building is not scheduled for completion until December of 1972, the formal cornerstone ceremonies will be held next month. Once the facility is built, a permanent setting for the stone will be styled in the floor of the main entrance.

With progress on the law building and a dining and dormitory complex under way, the initial stages of the State University are developing. The Law and Jurisprudence Building is located off the Millersport Highway, approximently one mile north of Maple Pond. The construction to date includes most of the cement groundwork and part of the steel exterior framework for the seven-story structure. Having worked through the winter months since November of 1970, the John W. Cowper Co., Inc. is moving along rapidly with the onslaught of warmer weather. Informed sources with the firm feel that the building will be completed on the expected date pending no further construction problems.

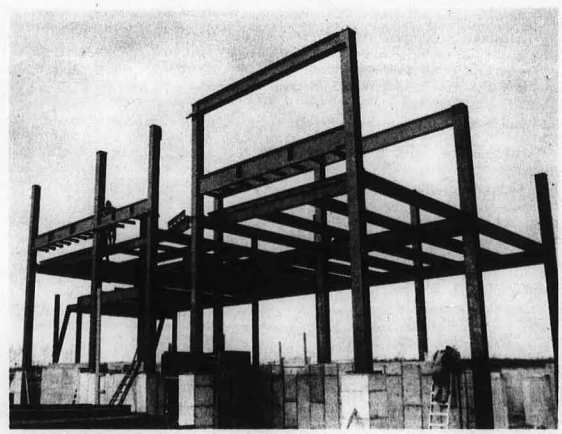
Bids for construction of the building were opened in November in the offices of the State University Construction Fund in Albany. The Cowper Company of Tonawanda, N.Y. was awarded the contract with a bid of $7,313,000. The total cost of the building is expected to be about $8.5 million.

Lakefront Location

The new law building will be situated in approximately the center of the Amherst Campus. As part of a group of academic buildings connected by bridged passageways, it will overlook the main plaza corridor. One of the most novel features of the Amherst facility, however, will be a 60 acre manmade lake to be constructed in an area south of the law school. The lake area, which will be utilized for recreational purposes including boating, sailing, and picnicing. This endeavor will be accomplished by re-routing Millersport Highway to make way for the lake which will be to a depth of 15 to 25 feet.

The land in the immediate vicinity of the lake will be occupied by a cultural center and a plaza to be built under the direction of the Urban Development Corporation. This facility will include stores and a threatre for use by the general public. The law school will be situated in close proximity to the lake and adjacent cultural center.

In the relatively near future the Buffalo Law School will undergo a dramatic change. Not only will the students, faculty, and administration move into a new complex with much needed available space, but the school will become an integral part of the State University Campus.



SCHROEDER (continued from page 11)

there is immediate danger to health and welfare.

One may note in passing that Mr. Schroeder's presentation was quite sparcely attended. Such apathy, when the speaker is prominent in the local community and has a topic well worthy of consideration, does not speak well of our academic community, particularly when there is a crying need to promote interaction between the local bar and the law school, for purposes of employment if no other, in a situation where Eagle Street is already looked upon askance by its alumni, and *vice-versa*.

Jerry Levy's rather feeble interruption - carrying a placard decrying bugging and Justice Department surveillance - seemed both immature and inappropriate for the free propogation of all positions which the speaker's program is attempting to foster.

EXAMINATIONS

(continued from page 3)

actually make the job of grading the papers easier, since part of his regular class will have written clearer, better organized, and more legible papers.

"To the objection that cheating will occur, I have several responses. First, even the traditional conditions as administered, do not prevent those who are so inclined from cheating. Secondly, under the present proposal, each individual will be better able to display his competence in a subject by choosing the environment under which he is better able to perform. The grade he receives will more accurately reflect his true understanding of the subject and be less likely to be prejudicied by the adverse conditions in which the exam was taken (at least the conditions will not have been imposed) – i.e. it will more closely reflect what he deserves. Therefore, it seems to me that this advantage of removing a definitely prejudicial factor for many, thus making each (non cheated) grade more reflective of the individuals level of understanding, greatly outweighs the harm (if any) to honest students as the result of dishonest students. A third point is that the protection of the public and profession from incompetent lawyers is primarily the job of the bar examiners (not that that exam is any more relevant) which should weed-out those totally incompetent (along with the many competent who also fail). I believe that an honor system – a system which has been acceptable to other law schools – should be imposed as to the take-home so that there is no question that only the *individual's* work is expected."